

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2634 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
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2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

RONSON INDUSTRIAL ENGINEERS PVT.LTD.

Versus

THE STATE OF GUJARAT

Appearance:

MR NILESH M SHAH for Petitioner
Mr.Y.F.Mehta A.P.P. for Respondent No. 1
MR MP PRAJAPATI for Respondent No. 2

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 05/10/96

ORAL JUDGEMENT

This Misc. Criminal Application was filed by the original complainant seeking leave to appeal against the order of acquittal . This Misc. Cri.Application happened to be dismissed for default on 29.2.96.

Thereafter the original petitioner had filed Misc. Cri.Application No. 1745/96 to set aside the order of dismissal for default and to restore the proceedings to file. By the consent of the other side my learned predecessor had allowed the said application on 30.7.96 and has restored this proceedings to file. Thereafter the matter had come before the Court on 29.8.96, leave was granted and appeal was admitted with a notice as to interim relief. Unfortunately this order is written not on docket of the main matter but on the docket of the Misc. Cri.Application No. 1745/96. I therefore, order to record the said order on the docket of the main matter and in view of the said order the appeal be numbered accordingly.

2. Ronson Industrial Engineers Pvt.Ltd. has preferred this appeal under section 374(4) against the order of acquittal passed in favour of respondent no.2 Gopalbhai. Respondent no.2 Gopalbhai was an employee of the petitioner and according to the petitioner, his services were terminated and he was asked to hand over possession of the premises, occupied by him, belonging to the petitioner. As he had not vacated the said premises he was prosecuted under section 630 of the Companies Act 1956. The trial was held before the learned JMFC, Umbergaon. The learned JMFC, Umbergaon came to the conclusion that the respondent no.2 was not illegally occupying the premises in question as dispute regarding his dismissal is pending before the Industrial Court and he has also acquitted the respondent no.2. Against the said order, present petitioner is preferred and the learned advocate for the petition wants an interim relief of an order to direct the respondent no.2 vacate the premises occupied by him. As the position stands today, the order of the learned JMFC is to the effect that the dispute regarding termination of services of the respondent no.2, is pending before the Industrial Court and therefore, in the circumstances, he has not convicted the respondent no.2 and he has not also ordered the respondent to vacate the premises. Therefore, in the circumstances, at this stage of the pendency of the appeal, if I order the respondent no.2 to vacate the premises in his occupation, that would, in my opinion, amount to finally deciding the appeal. In the circumstances of the case, I think that this is not a fit case for granting any interim relief as prayed for. Therefore, prayer for interim relief will have to be rejected. When I was dictating this order, L.A for the petitioner requested me not to pass this and allow him to withdraw the prayer for interim relief. But it is not proper to allow a party to withdraw his prayer when the

same is heard on merits and is being rejected on merits so as to keep the hanging sword on the head of the other side. I therefore, reject that prayer also.

The petitioner to supply English translation of the annexures annexed to the appeal on or before 16.10.96. The appeal to come up before the court on 23.10.96. Interim relief is ordered to continue till then.

(S.D.Pandit.J)